

Application No. 09/872,581  
RCE to FOA of 08/10/2005

### Remarks

In this RCE, claims 1-2 and 4-24 are presented for examination. Claims 21-24 are newly added. No new matter is presented.

#### I. Claim Rejections: 35 USC § 112

Claims 3 and 12-20 are rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter applicant regards as the invention.

Claim 3 is canceled, and claim 12 is amended to cure improper antecedent basis formally in lines 6-7.

Applicants respectfully request withdrawal of this rejection.

#### II. Claim Rejections: 35 USC § 103

Claims 1-14 and 20 are rejected under 35 USC § 103 as being unpatentable over USPN 6,041,306 (hereinafter Du) in view of Applicant Admitted Prior Art (AAPA). This rejection is traversed.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art cited must teach or suggest all the claim limitations. See M.P.E.P. § 2143. Applicants assert that the rejection does not satisfy these criteria.

#### All Elements Not Taught or Suggested

All of the elements of the claims are not taught or suggested in Du in view of AAPA. By way of example, limitations from independent claims 1 and 12 are discussed.

#### Claim 1

Independent claim 1 recites numerous limitations that are not taught or suggested in Du in view of AAPA. For example, claim 1 recites "at run time determining a number

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of work nodes to be activated in the multinode based on a size of a vector" (emphasis added). First, nowhere does Du teach or suggest that a multinode allows for activation of multiple parallel instances of a same work node. In fact, Du does not even teach or suggest multinodes as claimed. Second, AAPA does state that "multiple activities can be executed in parallel within a work node" (p. 5, lines 9-10). However, AAPA further states that "the number of activities that are executed in parallel is always equal to the number of resources that are available for execution of that activity" (emphasis added: p. 5, lines 10-13). AAPA expressly teaches that the number of activities always equals the number of available resources. By contrast, claim 1 recites that the number of work nodes to be activated in the multinode is "based on a size of a vector." Thus, the recitations of claim 1 are in direct contrast to the express teachings of AAPA.

As another example, claim 1 recites that completion of execution of the multinode is "based on a termination rule regardless of a status of work nodes in the work flow" (see Applicants FIG. 4 and specification beginning at p. 16, line 23 for support for this amendment). AAPA does not mention termination rules. Du also does not teach or suggest termination rules for multinodes.

For at least these reasons, claim 1 is allowable over Du in view of AAPA. The dependent claims are allowable for at least these reasons.

#### Claim 12

Independent claim 12 recites numerous limitations that are not taught or suggested in Du in view of AAPA. For example, claim 12 recites "determining a number of multiple instances of same work nodes in one of the multinodes to be activated based on a number of elements in a vector" (emphasis added). First, nowhere does Du teach or suggest multiple instances of same work nodes in a multinode. In fact, Du does not even teach or suggest multinodes as claimed. Second, AAPA does state that "multiple activities can be executed in parallel within a work node" (p. 5, lines 9-10). However, AAPA further states that "the number of activities that are executed in parallel is always equal to the number of resources that are available for execution of that activity" (emphasis added: p. 5, lines 10-13). AAPA expressly teaches that the number of activities always equals the number of available resources. By contrast, claim 12 recites that the

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number of work nodes to be activated in the multinode is "based on a number of elements in a vector." Thus, the recitations of claim 12 are in direct contrast to the express teachings of AAPA.

For at least these reasons, claim 12 is allowable over Du in view of AAPA. The dependent claims are allowable for at least these reasons.

**No Suggestion or Motivation to Combine/Modify**

No suggestion or motivation exists to combine the teachings of Du and AAPA. Du is directed to providing flexible and decentralized WFPM systems to dynamically redefine relationships between the WFMP system and resource managers (see col. 2, lines 42+). Du does not teach or suggest using multinodes as this term is recited in Applicants' claims. There is absolutely no suggestion whatsoever in Du for using multinodes. A person of ordinary skill looking to the teachings of Du and AAPA would have been taught two unrelated techniques, with no suggestion provided anywhere that the techniques of Du and AAPA can be combined in the manner proposed by the Office Action.

It is well established law that "[t]he mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification." *In re Gordon*, 733 F.2d 900, 902, 221 U.S.P.Q. 1125 (Fed. Cir. 1984) (emphasis added). As the Federal Circuit has stated, "virtually all [inventions] are combinations of old elements." *In re Rouffet*, 149 F.3d 1350, 1357, 47 U.S.P.Q.2d 1453 (Fed. Cir. 1998). "Most, if not all, inventions are combinations and mostly of old elements." *Id.*

Therefore an examiner may often find every element of a claimed invention in the prior art. If identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue. Furthermore, rejecting patents solely by finding prior art corollaries for the claimed elements would permit an examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention. Such an

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approach would be 'an illogical and inappropriate process by which to determine patentability.'

*Id.*

Clearly, Du does not provide any suggestion of any desirability to incorporate the teachings of multinodes. The Office Action has failed to establish that any motivation or suggestion existed to combine the teachings of Du and AAPA. Therefore, the *prima facie* case of obviousness has not been established.

### III. Claims Rejection – 35 USC § 103

Claims 15-19 are rejected under 35 USC § 103(a) as being unpatentable over Du and AAPA in view of US 2002/0083166 (hereinafter Dugan). Applicants respectfully traverse.

As noted above in section II, Du and AAPA do not teach or suggest all the limitations of claim 12. Dugan does not cure the deficiencies of Du and AAPA. Thus, for at least the reasons given above in connection with independent claim 12, dependent claims 15-19 are allowable over Du and AAPA in view of Dugan.

### IV. New Claims

Applicants add new claims 21-24. These claims have numerous recitations that are not taught or suggested in the art of record. For example, claim 21 recites "determining, based on an activation rule, whether the activation of the multiple parallel instances of the same work node is a resource-based activation or a variable-based activation." As noted above, AAPA states that "the number of activities that are executed in parallel is **always equal** to the number of resources that are available for execution of that activity" (emphasis added: p. 5, lines 10-13).

For at least these reasons, claims 21-24 are allowable over the art of record.

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### CONCLUSION

In view of the above, Applicants believe all pending claims are in condition for allowance. Allowance of these claims is respectfully requested.

Any inquiry regarding this Amendment and Response should be directed to Philip S. Lyren at Telephone No. (281) 514-8236, Facsimile No. (281) 514-8332. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,



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#### CERTIFICATE UNDER 37 C.F.R. 1.8

The undersigned hereby certifies that this paper or papers, as described herein, is being transmitted to the United States Patent and Trademark Office facsimile number 571-273-8300 on this 10 day of November, 2005.

By   
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